REMARKS

Claims 1-36 are pending in the application. Claims 1-36 are rejected. Claims 1-7, 10-12, 15-16, 20, 24-25, 28-30 and 32-34 have been amended. Reconsideration is respectfully requested.

Claim Objections

Claims 2, 6, 7, 11, 15, 16, 20, 24, 25, 29, 33 and 34 are objected to.

Claims 2, 6, 11, 15, 20, 24, 29 and 33 have been amended to spell out "VAD".

Claims 7, 16, 25, and 34 have been amended to spell out "SID".

Claim Rejections - 35 U.S.C. § 103

Claims 1-36 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Posthuma, U.S. Patent No. 6,694,012, in view of Dorenbosch, U.S. Patent Publication No. 2002-0119795 A1.

A prima facie case of obviousness has not been established at least because there is no suggestion to modify Posthuma with Dorenbosch. The suggestion to modify must have existed at the time of filing of the present specification. The suggestion alleged by the Examiner uses impermissible hindsight by considering what was allegedly well used at the time of the October 5, 2005 Office Action. VoIP is much more well used now than it was when the present application was filed. The Examiner has not identified a suggestion to modify Posthuma with Dorenbosch that existed in the prior art at the time the present application was filed.

Regardless, claim 1 has been amended. Support for the amendment is included on page 7, lines 8-10. The alleged combination fails to teach each and every element of claim 1. Neither reference teaches at least the element of withholding transmitting of on-hold music/sound ... when the detected return speech is sustained for at least a predetermined amount of time.

Posthuma teaches an energy detector that monitors a line for any energy of any kind. Col. 1, lines 25-48. After any energy of any kind has been detected, "then the detector notifies the processor to disable or lower the volume of the music on hold." Posthuma does not teach disabling when the detected return speech is sustained for at least a predetermined amount of time. Disadvantageously, the detector of Posthuma would always disable the music when someone makes any noise, such as a cough or sneeze, a brief comment, etc.

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In contrast, claim 1 includes the feature of withholding transmitting of on-hold music/sound ... when the detected return speech is sustained for at least a predetermined amount of time. Advantageously transmission of music may continue when someone makes a brief comment. Thus, claim 1 should be allowed. Claims 2-9 are dependant and should also be allowed.

With respect to claim 10, a prima facie case of obviousness has not been established for at least similar reasons as claim 1. There is no suggestion in the prior art, at the time the present application was filed, to modify Posthuma with Dorenbosch.

Regardless, claim 10 has been amended. Support for the amendment may be found in the present specification, page 7, lines 20-23. The alleged combination fails to teach each and every element of claim 10. Neither reference teaches at least the element of a means for withholding transmitting on-hold music/sound ... in response to the SID packet determination indicating that there is return speech.

It was acknowledged by the Examiner that Posthuma fails to teach the element of a means for withholding transmitting on-hold music/sound ... in response to the SID packet determination indicating that there is return speech.

Dorenbosch is directed to arbitrating the right to speak during a voice conference. An agent switches a user to Idle mode after identifying packets that encode silence. Paragraph 0024. Idle mode only affects whether a speaker in a voice conference may participate. Idle mode has no effect on whether "on-hold music/sound" is transmitted. There is no suggestion to modify the Idle mode to have an effect on on-hold music because it doesn't make sense to play on-hold music while people are speaking during a conference call. Thus, Dorenbosch fails to teach the element of a means for withholding transmitting on-hold music/sound ... in response to the SID packet determination indicating that there is return speech.

In contrast, claim 10 includes the element of a means for withholding transmitting on-hold music/sound ... in response to the SID packet determination indicating that there is return speech. Thus claim 10 should be allowed. Claims 11-18 are dependant and should also be allowed.

Claim 19 should be allowed for at least similar reasons as claim 1. There is no suggestion to combine the references as of the filing date of the present specification. Claims 20-27 are dependant and should also be allowed.

With respect to claim 25, the alleged combination fails to teach at least the element of performing silence-monitoring by interpreting a received Silence Identification (SID) packet. It was alleged that the "encoded silence" of Dorenbosch teaches an SID packet. Encoding

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silence wastes bandwidth because a receiving endpoint decodes the silence (background noises, for example) and plays this out to a user. In contrast, an SID packet indicates that no sound should be played, thereby saving bandwidth. With the use of an SID packet, background silence need not be encoded, transmitted, and played out to a user.

Furthermore, detecting encoded silence is more difficult than detecting an SID packet. When monitoring for encoded silence as in Dorenbosch, a receiver has to check through all packets of a frame to make sure that the whole frame is silent before concluding that the frame is silent. In contrast, analyzing a single SID packet can inform a receiver that an entire frame is silent, or even that multiple frames are silent. Thus claim 25 should be allowed.
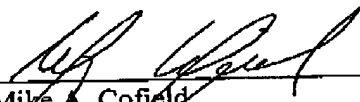
Claim 28 has been amended. Claim 28 should be allowed for at least similar reasons as claims 1 and 10. Claims 29-36 are dependant and should also be allowed.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of claims 1-36 of the application as amended is solicited. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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